

## **REMARKS**

Claims 5-15, 19, 20 and 32 remain in the application. All such claims stand rejected. Claims 5, 11, 19 and 32 have been amended by this response. No new matter has been added. Reconsideration in view of the amendments and traverses set forth herein is respectfully requested. Applicants respectfully submit that all pending claims are in condition for allowance.

## **THE CLAIMS DEFINE PATENTABLE SUBJECT MATTER**

The Office Action dated April 24, 2007 rejects claims 5, 6, 8-15, 19, 20, and 32 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,930,233 issued to Kanerva et al. (hereinafter referred to as “Kanerva”) in view of U.S. Patent No. 5,539,923 issued to Matsumoto (hereinafter referred to as “Matsumoto”). Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kanerva in view of Matsumoto in further view of U.S. Patent No. 6,928,468 issued to Leermakers (hereinafter referred to as “Leermakers”). The Examiner directs Applicants to the Office Action dated October 23, 2006 for the substance of the rejections. Those rejections in view of the amendments are respectfully traversed as set forth below.

### **A. The Rejection of Claims 5, 11, 19 and 32**

Applicants have amended independent claims 5, 11, 19 and 32 to further clarify the present subject matter. These claims have been amended to further comprise “receiving a retransmission of the lost frame over the established second data channel”. Support for this amendment is found on page 17, lines 7-19 of the specification.

In the Office Action dated October 23, 2006, the Examiner alleges that Kanerva teaches establishing a second channel between the data sending unit and the data receiving unit and sending a request for retransmission of the lost frame over the established second data channel. Applicants respectfully disagree with the application of Kanerva in this manner. The subject matter of claims 5, 11, 19 and 32, as amended, is not disclosed in Kanerva. Specifically, Applicants assert that Kanerva does not teach establishing a second channel between the data sending unit and the data receiving unit, sending a request for

retransmission of the lost frame over the established second data channel, and receiving a retransmission of the lost frame over the established second data channel, as claimed.

Kanerva teaches that speech or data is transmitted on traffic channels and signaling is transmitted on control channels. The Examiner equates the claimed first data channel with Kanerva's traffic channel, and the claimed second data channel with Kanerva's control channel (Office Action dated October 23, 2006, page 3.) Applicants respectfully disagree. As is known by one skilled in the art, and as is specifically recited in Kanerva (column 4, lines 56-58), traffic channels are used for transmitting user data (either voice or other data) and control channels are used for transmitting circuit signaling and control information. Therefore, the second data channel of the present subject matter is not the same as a control channel because it is used to transmit frames lost between a data sending unit and a data receiving unit. The second data channel is not a control channel used only for signaling. The Examiner appears to be ignoring the word "data" in the phrase "second data channel".

Therefore, Kanerva does not teach establishing a second channel between the data sending unit and the data receiving unit, sending a request for retransmission of the lost frame over the established second data channel, and receiving a retransmission of the lost frame over the established second data channel. Furthermore, Matsumoto fails to cure this deficiency of Kanerva. Since Kanerva does not teach elements of the present invention as set forth above, Kanerva and Matsumoto do not teach all of the elements of independent claims 5, 11, 19 and 32. Therefore, Kanerva and Matsumoto cannot render obvious these claims under 35 U.S.C. 103(a).

Accordingly, Applicants believe that even if it is appropriate to combine Kanerva and Matsumoto (which Applicants do not acknowledge and respectfully reserve the right to substantively challenge such combination), claims 5, 11, 19 and 32 are patentable over such references and respectfully request reconsideration and allowance of those claims. Since claims 6-10, 12-15, and 20 depend, directly or indirectly, from claims 5, 11, 19 and 32 respectively, then those claims are also in condition for allowance.

## **B. Other Claim Rejections**

Applicants acknowledge that the Office Action establishes grounds for rejection of the claims that are dependent upon claims 5, 11, 19 and 32. However, in view of the

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amendments and traversals set forth with respect to those claims, Applicants believe that all such dependent claims are in condition for allowance, rendering the rejections of those claims moot. Applicants believe that this response completely and accurately addresses all grounds of rejection. Applicants reserve the right to challenge the rejection of any of those dependent claims in any future response that may be forthcoming.

### **CONCLUSION**

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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